

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

ARRELLO BARNES,

Plaintiff,

**9:15-cv-777
(GLS/DEP)**

v.

ANTHONY ANNUCCI et al.,

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

Arrello Barnes
Pro Se
00-A-0597
Upstate Correctional Facility
P.O. Box 2001
Malone, NY 12953

FOR THE DEFENDANT:

HON. LETITIA JAMES
New York State Attorney General
The Capitol
Albany, NY 12224

COLLEEN D. GALLIGAN
Assistant Attorney General

**Gary L. Sharpe
Senior District Judge**

ORDER

On March 12, 2019, Magistrate Judge David E. Peebles filed an Order, Report, and Recommendation (R&R), which recommends that

defendants' motion for summary judgment be granted, plaintiff *pro se* Arelllo Barnes' cross-motion for summary judgment be denied, and the second amended complaint be dismissed. (Dkt. No. 105 at 44-45.) Pending before the court are Barnes' objections to the R&R. (Dkt. No. 108.)

Barnes' objections are problematic for several reasons: they overlook or misapprehend the reasons supporting the recommendations in the R&R, they rehash arguments previously presented to and rejected by Judge Peebles, and they raise new arguments not presented to Judge Peebles with the initial briefing. For all of these reasons, Barnes' objections are properly classified as general and merit review of the R&R for clear error only. See *Almonte v. N.Y.S. Div. of Parole*, No. Civ. 904CV484, 2006 WL 149049, at *5-*6 (N.D.N.Y. Jan. 18, 2006). After carefully considering the R&R and Barnes' objections, and finding no clear error — or error of any kind — the R&R, (Dkt. No. 105), is adopted in its entirety.

Accordingly, it is hereby

ORDERED that the Order, Report, and Recommendation (Dkt. No. 105) is **ADOPTED** in its entirety; and it is further

ORDERED that defendants' motion for summary judgment (Dkt. No.

97) is **GRANTED**; and it is further

ORDERED that Barnes' cross-motion for summary judgment (Dkt. No. 102) is **DENIED**; and it is further

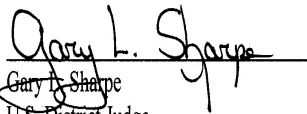
ORDERED that Barnes' second amended complaint (Dkt. No. 72) is **DISMISSED**; and it is further

ORDERED that the Clerk close this case; and it is further

ORDERED that the clerk provide a copy of this Order to the parties in accordance with the Local Rules of Practice.

IT IS SO ORDERED.

March 27, 2019
Albany, New York



Gary L. Sharpe
U.S. District Judge